

IN THE UNITED STATES BANKRUPTCY COURT FOR THE MIDDLE DISTRICT OF TENNESSEE

IN RE:	}	Case No. 3:14-bk-10062
ANTHONY FRANTSEK NOVOTNY	}	
254 CHEROKEE STATION	}	Chapter 13
NASHVILLE, TN 37209	}	
SSN: xxx-xx-5556	}	Judge Keith M. Lundin
Debtor.	}	

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**THE DEADLINE FOR FILING A TIMELY RESPONSE IS:** March 9, 2015  
**IF A RESPONSE IS TIMELY FILED, THE HEARING WILL BE:** March 18, 2015 at 8:30 a.m. in  
Courtroom One, The Customs House, 701 Broadway, Nashville, TN 37203

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**NOTICE OF OBJECTION TO COURT CLAIM #5-1 OF SMYRNA READY MIX, LLC**

The Debtor has asked the Court for the following relief: entry of an order disallowing Court Claim #5-1 of Smyrna Ready Mix, LLC.

**YOUR RIGHTS MAY BE AFFECTED.**

If you do not want the court to grant the attached motion, or if you want the court to consider your views on the motion, then on or before March 9, 2015, you or your attorney must:

1. File with the court your written response or objection explaining your position at:

By Mail: U.S. Bankruptcy Court, P.O. Box 24890, Nashville, TN 37202-489090  
In Person: U.S. Bankruptcy Court, 701 Broadway, 1<sup>st</sup> Floor, Nashville, TN  
(Monday- Friday, 8:00 a.m. – 4:00 p.m.)

2. Your responses must state that the deadline for filing responses: **March 9, 2015**, the date of the scheduled hearing is: **March 18, 2015** and the motion to which you are responding is: **OBJECTION TO COURT CLAIM #5-1 OF SMYRNA READY MIX, LLC**.

If you want a file stamped copy returned, you must include an extra copy and a self-addressed, stamped envelope.

3. You must also mail a copy of your response to:

James A. Flexer, 176 2nd Avenue North, Suite 501, Nashville, TN 37201, and see Certificate of Service for additional parties to serve (attached hereto)

If a timely response is filed, the hearing will be held at the time and place indicated above. ***THERE WILL BE NO FURTHER NOTICE OF THE HEARING DATE.*** You may check whether a timely response has been filed by calling the Clerk's office at 615-736-5584 or viewing the case on the Court's web site at [www.tnmb.uscourts.gov](http://www.tnmb.uscourts.gov). If you received this notice by mail, you may have three additional days in which to file a timely response under Rule 9006(f) of the Federal Rules of Bankruptcy Procedure.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting relief.

Date: 2/5/2015

Signature: /s/ James A. Flexer

Name: Law Offices of James A. Flexer

Address: 176 2nd Avenue North, Suite 501, Nashville, TN 37201

Email: [cm-ecf@jamesflexerconsumerlaw.com](mailto:cm-ecf@jamesflexerconsumerlaw.com)

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254 CHEROKEE STATION	}	Chapter 13
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SSN: xxx-xx-5556	}	Judge Keith M. Lundin
Debtor.	}	

**OBJECTION TO COURT CLAIM #5-1 OF SMYRNA READY MIX, LLC**

COMES NOW the Debtor, by and through counsel, and would object to Court Claim #4-1, filed January 27, 2015, by Smyrna Ready Mix, LLC in the amount of \$6,332.59 against the estate of the Debtor.

As grounds, the Debtor would state that:

1. Novotny Custom Homes, Inc. filed a Chapter 7 bankruptcy proceeding in the Middle District of Tennessee on October 30, 2014, case number 14-08632.
2. The debt owed to Smyrna Ready Mix, LLC is solely the debt of Novotny Custom Homes, Inc., and is not a debt owed by the Debtor, Anthony Novotny, personally.
3. The claimholder did not attach a personal guarantee to its claim.

WHEREFORE, based on the foregoing, the Debtor would respectfully request an order that disallows Court Claim #5-1 by Smyrna Ready Mix, LLC in the amount of \$6,332.59 and requests that any disbursements to this claim be held during the pendency of this objection.

An affidavit of the Debtor's attorney in support of this objection is attached hereto as Exhibit A.

Respectfully submitted,

/s/ James A. Flexer

James A. Flexer, BPR #9447

Attorney for Debtors

Law Offices of James A. Flexer

176 2nd Avenue North, Suite 501

Nashville, TN 37201

(615) 255-2893

fax: (615) 242 8849

Email: [cm-ecf@jamesflexerconsumerlaw.com](mailto:cm-ecf@jamesflexerconsumerlaw.com)

# **DRAFT**

IN THE UNITED STATES BANKRUPTCY COURT FOR THE MIDDLE DISTRICT OF TENNESSEE

IN RE:	}	Case No. 3:14-bk-10062
ANTHONY FRANTSEK NOVOTNY	}	
254 CHEROKEE STATION	}	Chapter 13
NASHVILLE, TN 37209	}	
SSN: xxx-xx-5556	}	Judge Keith M. Lundin
Debtor.	}	

## **PROPOSED ORDER GRANTING OBJECTION TO COURT CLAIM #5-1 OF SMYRNA READY MIX, LLC**

It appears to the United States Bankruptcy Court for the Middle District of Tennessee that the Debtor filed an Objection to Claim and notice of said objection has been given pursuant to L.B.R. 9013-1 to all parties in interest. It further appears to the Court that thirty (30) days have elapsed since the date of service of the objection and no responses have been forthcoming from any party in interest.

It is therefore ORDERED as follows:

1. Court Claim #5-1 by Smyrna Ready Mix, LLC in the amount of \$6,332.59 shall be disallowed in its entirety.

IT IS SO ORDERED.

*This order was electronically signed and entered as indicated at the top of the first page*

APPROVED FOR ENTRY:

/s/ James A. Flexer  
James A. Flexer, BPR #9447  
Attorney for Debtors  
Law Offices of James A. Flexer  
176 2nd Avenue North, Suite 501  
Nashville, TN 37201  
(615) 255-2893  
fax: (615) 242 8849  
Email: [cm-ecf@jamesflexerconsumerlaw.com](mailto:cm-ecf@jamesflexerconsumerlaw.com)

**CERTIFICATE OF SERVICE**

I hereby certify that on February 5, 2015, I furnished a true and correct copy of the foregoing to the following parties in interest:

Electronic

Henry E. Hildebrand, III  
Chapter 13 Trustee  
P.O. Box 340019  
Nashville, TN 37203-0019

Electronic

Samuel K. Crocker, U.S. Trustee  
318 Customs House, 701 Broadway  
Nashville, TN 37203

U.S. mail first class

Anthony Novotny  
254 Cherokee Station  
Nashville, TN 37209

U.S. mail first class

Smyrna Ready Mix, LLC  
1136 Second Avenue North  
Nashville, TN 37208

I have sent out 2 notices via U.S. mail first class.

/s/ James A. Flexer  
James A. Flexer

# EXHIBIT A

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE

IN RE:

ANTHONY FRANTSEK NOVOTNY

SSN: xxx-xx-5556

Debtor(s)

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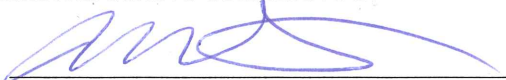
Case No. 3:14-bk-10062  
Chapter 13  
Judge Keith Lundin

**AFFIDAVIT OF DEBTORS' ATTORNEY IN SUPPORT OF OBJECTION TO CLAIM**

I, Michelle Spezia, having been duly sworn, would affirm the following under oath:

1. I represent the Debtor in the above referenced Chapter 13 bankruptcy proceeding.
2. I am at all times during the giving of this testimony, of sound mind and competent to testify.
3. My client objects to court's claim number 5-1 filed by Smyrna Ready Mix, LLC in the amount of \$6,332.59 for goods sold to Novotny Custom Homes, Inc.
4. Novotny Custom Homes, Inc. filed a Chapter 7 bankruptcy proceeding in the Middle District of Tennessee on October 30, 2014, case number 14-08632.
5. My client contends that the debt owed to Smyrna Ready Mix, LLC is solely debt of Novotny Custom Homes, Inc., and is not a debt owed by Anthony Novotny personally.
6. The claimholder did not attach a personal guarantee to its claim.

FURTHER AFFIANT SAITH NOT.



MICHELLE SPEZIA

STATE OF TENNESSEE

Sworn to me on this 3rd day  
of February, 2015.

COUNTY OF DAVIDSON

*Kelsey Caldwell*  
NOTARY PUBLIC AT LARGE  
My Commission expires:

